



## The District Court

for the 48th Judicial District of Michigan

DIANE DICKOW D'AGOSTINI  
DISTRICT JUDGE

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May 15, 2007

State Representatives Condino, Donigan, Meisner,  
Melton, Vagnozzi, DeRoche, David Law, Kathleen Law,  
Moss, Rick Jones, Robert Jones, Meadows, Byrnes,  
Hammon, Polidori, Knollenberg, Amos, Stakoe,  
Garfield, Marleau, Ward

Dear Representative:

Thank you for taking the time to review my objections to House Bill No. 4725. I apologize for not appearing personally to voice my concerns but I received information only on May 14 that the hearing is set for May 16. I have also learned that you believe the Oakland County District Judges Association is supporting this bill. Please be advised that I am a member of this group and was never told of any such vote so that I could voice by objections. There are several other district judges who also oppose this bill who were also never told of a vote within the association. I am opposed to this bill as a District Judge, as a mother and as a citizen of Oakland County.

In the past year, Oakland County has released in excess of 1300 prisoners with six overcrowding releases with another release expected within days. I have witnessed first hand these same individuals back in court within weeks of release as they have committed other crimes.

Section 1(ii)(A) of the bill mandates early releases when the jails are at 95% capacity. I have been told that many of the jails operate at 95% capacity on a daily basis meaning early releases would be a daily occurrence.

Section (B)(i) prohibits early release for only six categories of crimes. In other words, defendants shall be released if incarcerated for crimes such as home invasion, breaking and entering, malicious destruction of property, harassment, identity theft, embezzlement, retail fraud, driving offenses, larceny and others. It is obvious that the business community would be greatly impacted by the release of individuals who have no respect for laws regarding property.

Astonishingly, under this bill, a defendant's criminal record is not taken into consideration. Thus, an individual incarcerated for one of the above offenses, who has a prior record, would still be eligible for release. I reference this example because most defendants who are serving a jail sentence have lengthy records. For example, I reviewed a defendant with a charge of no license on person who had a prior record of two criminal

sexual conduct convictions against children in addition to failing to register as a sex offender. Clearly, his record as a sex offender was relevant to the bond and sentencing that was set by me, but under the bill's parameters he would receive a personal bond and early release because only his commitment crime of no license on person is considered. His criminal record would not be contemplated. Yesterday, I reviewed a file of a defendant with 61 prior convictions who would be eligible for personal bond and early release under this bill because his present crime is retail fraud. Most of the cases that involve incarceration involve individuals with lengthy criminal records.

The plan gives authority to every sheriff in the state to change lawful bonds set by a judge. Bonds can be modified to personal and the value is determined by a committee. This method has several flaws. When bonds are set, MCR 6.106(F)(1) requires several factors to be considered including the defendant's past record, current offense, history of failing to appear in court, danger to the community, etc. Often times, officers give additional information that should be considered in reference to bond. All of this information is taken into consideration before bond is set. This proposal directly contradicts MCR 6.106(F)(1). Many of these individuals have already failed to appear in court but would be eligible for a personal bond. It is of great concern that an undisclosed person can arbitrarily revert a bond to personal without knowing the information that was contemplated at arraignment.

Section (P) requires preparation of long range plans to address the overcrowding releases, "including recommendations to the county board of commissioners on construction of new jail facilities and funding for construction or other options designed to alleviate the overcrowding problem." The public has a right to know what these plans are. I have asked this question before but to no avail. The public has spoken repeatedly on issues of public safety. For example, in 2006, four Oakland County municipalities voted strongly in favor of passing public safety millages.

Section (4) allows for the "delegation of judicial sentencing authority for the purpose of reducing prior valid jail sentences." An obvious concern is the violation of the separation of powers. How can a group comprised of the sheriff, prosecutor, a representative from the state court administrator's office and judges amend a valid judicial sentence or bond? Who in this management plan will be accountable to the public?

As this proposed legislation is being discussed, please give a voice to the victims of crime as they are not referenced in this bill. Victims of crime expect accountability when they have been violated, not early release. This legislation appears to be in direct conflict with the goals of the Crime Victim Rights Act, MCL 780.751. The long term effect of this bill sends a negative message to victims, rewards wrongdoers and has the potential of increasing crime. The public's safety must be considered. I urge you to vote against House Bill No. 4725. Thank you very much for your time and attention to this very critical issue.

Respectfully Yours,



Diane D'Agostini  
Chief Judge-48<sup>th</sup> District Court